

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0197

Sales Tax and Use Tax

Calendar Years 1996, 1997, and 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is a subsidiary which operates within Indiana and provides intrastate telecommunications services.

I. Tax Administration – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in reporting its sales and use taxes. A prior audit containing identical issues was completed on June 30, 1997.

Taxpayer protests the penalty based upon reasonable cause, primarily, that the assessment was a small error rate and the issues were brought up after a prior audit was closed.

A review of the current audit revealed the taxpayer made no attempt to self assess use tax on clearly taxable items and had no use tax accrual system in place. The penalty is appropriate as the taxpayer made no effort to self assess use tax and the issue was present in two prior audits.

FINDING

Taxpayer's protest is denied.